

The Regular Meeting of the Troy City Planning Commission was called to order by Chairman Chamberlain at 7:30 P.M. on Tuesday, September 10, 2002, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Kramer
Chamberlain
Waller
Wright
Starr
Storrs
Littman
Pennington (arrived @ 8:30 P.M.)

Absent

Vleck

Also Present:

Brent Savidant, Principal Planner
Susan Lancaster, Assistant City Attorney

Moved by Waller

Seconded by Wright

RESOLVED, that Mr. Vleck and Ms. Pennington be excused from attendance at this meeting with the provision of modifying this motion upon Ms. Pennington's arrival to excuse Mr. Vleck only.

Yeas

All Present (7)
Pennington (arrived @ 8:30 P.M.)

Absent

Vleck

MOTION CARRIED

2. PUBLIC COMMENTS

No public comments

3. MINUTES – August 13, 2002

RESOLUTION

Moved by Pennington

Seconded by Starr

RESOLVED to approve the August 13, 2002 Planning Commission Regular Meeting Minutes as presented.

Yeas

Starr

Storrs

Kramer

Chamberlain

Pennington (arrived @ 8:30 P.M.)

Absent

Vleck

Abstain

Waller

Wright

Littman

MOTION CARRIED

SITE PLANS

4. SITE PLAN RENEWAL (SP-642) – Gardner Signs Building Expansion, Proposed Addition to Industrial Bldg., North side of Naughton, East of Stephenson Hwy., Section 26 – M-1

Mr. Savidant presented a summary of the Planning Department report for the Gardner Signs Building Expansion, proposed addition to industrial building.

Mr. Waller asked Mr. Savidant to indicate where the 500 foot loading area might be.

Mr. Savidant stated that this loading and unloading area would be delineated on the pavement.

Mr. Waller stated, there is nothing in the ordinance that causes it to be required.

Mr. Savidant stated, it is required.

The petitioner agrees with the area for loading and unloading.

Mr. Storrs asked what's going to happen to all of your outside storage.

Petitioner stated that he has had discussions with his tenant and informed him that he will have to dispose of his old signs on a more regular basis.

RESOLUTION

Moved by Starr

Seconded by Waller

RESOLVED, that Preliminary Site Plan Approval, as requested for the Gardner Signs Building Expansion a proposed addition to an industrial building located on the north side of Naughton and east of Stephenson Highway, located in Section 26, within the M-1 zoning district is hereby granted subject to the following conditions:

1. Subject to the expansion of the 500 foot loading area as noted on in the Planning Department's report and indicated by the Principal Planner on the site plan.

Yeas:

All present (7)

Pennington (arrived @ 8:30 P.M.)

Nays:

Absent:

Vleck

MOTION CARRIED

5. SITE PLAN REVIEW (SP-655) – Maplewood Commons, Proposed Industrial Bldg., Southeast Corner of Combermere and Maple, Section 34 – M-1

Mr. Savidant presented a summary of the Planning Department report for the Maplewood Commons, proposed Industrial Building.

There was a brief discussion following Mr. Savidant's summary.

RESOLUTION

Moved by Wright

Seconded by Waller

RESOLVED, that Preliminary Site Plan Approval, as requested for the Maplewood Commons, proposed industrial building, located at the southeast corner of

Combermere and Maple, Section 34, located within the M-1 zoning district is hereby granted.

Yeas:

All present (7)

Pennington (arrived @ 8:30 P.M.)

Nays:

Absent:

Vleck

MOTION CARRIED

SPECIAL USE REQUEST

6. PUBLIC HEARING – SPECIAL USE REQUEST (SU-316) – First United Methodist Church of Troy, Proposed Church Renovation and Addition, West side of Livernois, North of Square Lake, Section 4 – R-1B

Mr. Savidant presented a summary of the Planning Department report for the First United Methodist Church of Troy, proposed church renovation and addition.

Mr. Chamberlain stated that he would like to see a five (5) foot separation for a safer environment for pedestrians.

Mr. Wright asked if there is any reason they couldn't expand the parking lot to the south.

Mr. Savidant replied, the reason they couldn't expand to the south, as the photograph shows, there is a significant grade differential.

Mr. Storrs stated, they had approval before July 1, 2000 to expand the parking; but now this request takes the parking closer to the residential, is that right?

Mr. Savidant replied, yes.

Mr. Waller stated that he had the opportunity to walk the property. He hopes that when this goes to the Board of Zoning Appeals that common sense prevails. If a berm is required on the south or west side of the property, it will take out trees and our concern is trying to save trees in Troy. Also, the retention pond and its location on the southwest corner would also take out trees and it's also a twenty (20) to twenty-five (25) foot drop. Is the City to become the caretaker of the detention pond? It would have a steep grade to climb, and would also take out more trees. He would hope that Engineering and the architect can put some

cleverness to the retention requirement to try and maintain the beauty of the facility and the beauty of the tree lot.

Mr. Savidant stated that in 1989 the stormwater flowed down the hill, down the bank, and there's a flood plain that it does go into and it does that naturally. We will advise Engineering of your concerns.

Mr. Littman stated that the drawing calls for parking of 207 cars. Is that a discrepancy?

Mr. Savidant stated that it is a discrepancy and that when the drawing comes back, it will be changed.

Mr. Constantine Pappas, 560 Kirts, the architect for the First United Methodist Church of Troy, agreed that there are a number of Engineering issues that Mr. Waller brought up. We really can't answer his questions yet as we haven't gotten into those issues with Engineering yet. The requests from the Planning Department are no problem relative to location of the dumpster as well as moving the access sidewalk to the south. We do have a concern relative to the deceleration lane and the acceleration lane. There's really nothing throughout the whole area of Livernois from Square Lake north. This would be the very first parcel to do that. We hope to have the opportunity to apply for a variance regarding this issue.

Mr. Chamberlain asked, is that the traffic committee?

Ms. Lancaster stated it would go to the Transportation Engineer.

Mr. Pappas stated that they will be submitting an application for a variance as mentioned earlier, the grades along the south and the west side are very steep. We would really like to create some type of a landscape buffer along the northern side if possible. The church held a meeting on September 4, 2002, with a number of residents in the community invited to an open session to hear some of the resident's concerns and to show them some of the plans and the meeting was well received by the adjoining residents.

Mr. Starr stated the closer you get to the building with the dumpster, the better.

Mr. Pappas stated that there is no problem with that.

Mr. Starr asked about the existing stripes in the boulevard area and if parking is being planned in that area.

Mr. Pappas replied, no.

Mr. Waller asked why can't the Commission issue this Special Use approval prior to the Board of Zoning Appeals' action?

Mr. Chamberlain stated that there are actually two actions before us this evening. One is Special Use approval and the other is Site Plan approval. However, the public hearing tonight is for Special Use approval. Why can't we do the Special Use approval and get that one off the books and make the Church a legal thing in Troy?

Mr. Savidant stated that procedurally, you may want to hold off; the petitioner has to come back anyways. If you approve the Special Use tonight, you will be putting more pressure on the Board of Zoning Appeals to approve the variance.

Mr. Chamberlain stated that there are other churches that do expansions who already have Special Use approval that was given to them years before when they built the original building. All we're trying to do is a procedural thing by granting Special Use approval of an existing church. It has nothing to do with the building of an expansion. The church is there, it needs a Special Use approval to really operate in the City of Troy. I believe that is where we are coming from. Is that correct Mr. Waller?

Mr. Waller agreed.

Mr. Chamberlain stated I don't see how we're putting any pressure on the Board of Zoning Appeals by doing a Special Use approval because the church does exist.

Mr. Storrs commented, from what he understands, this church has never received Special Use approval.

Mr. Chamberlain replied, that's correct.

Public hearing opened.

Dean Bise, 6375 Livernois, stated that his property is adjoining to the church and that he would prefer having landscaping rather than a wall.

Public hearing closed.

RESOLUTION

Moved by Kramer

Seconded by Wright

RESOLVED, that Special Use Approval pursuant to Section 10.30.04 of the zoning ordinance, as requested for the First United Methodist Church of Troy, located on the west side of Livernois and north of Square Lake, Section 4, within the R-1B zoning district, be approved.

Yeas:

All present (7)

Pennington (arrived @ 8:30 P.M.)

Nays:Absent:

Vleck

MOTION CARRIED

RESOLUTION

Moved by Kramer

Seconded by Littman

RESOLVED, that Preliminary Site Plan for the proposed church renovation and addition, as requested for the First United Methodist Church of Troy, located on the west side of Livernois and north of Square Lake, Section 4, within the R-1B zoning district, be tabled to the November Regular Planning Commission meeting for the following reasons:

1. To allow the petitioner to submit an application to the Board of Zoning Appeals for a variance of the parking lot wall and landscape berm within the requirements of the zoning ordinance.
2. Move the screened dumpster from its proposed location in the northwest corner of the parking lot, to the southeast corner of the parking lot.
3. Move the 5-foot wide concrete walk from its proposed location immediately abutting the entry drive, so that it is separated by a 5-foot wide strip of grass.
4. That the detention pond gets moved out of the wooded area and that the area designated for the detention pond be investigated as to become a part of a swale system.

5. That an improved lighting plan be included.

Yeas:

Littman

Kramer

Chamberlain

Waller

Wright

Starr

Pennington (arrived @ 8:30 P.M.)

Nays:

Storrs

Absent:

Vleck

Mr. Storrs stated that church parking lots do not give enough deference to abutting residential. He does not want to see the parking get any closer to the residential to the north than it is right now.

MOTION CARRIED

REZONING PROPOSALS

7. PUBLIC HEARING - PROPOSED REZONING (Revised Request) (Z-681) – Proposed Rochester Road Condominium Development, East side of Rochester, North side of Lamb, Section 14 – R-1C to R-1T & E-P

Mr. Savidant presented a summary of the Planning Department report for the proposed Rochester Road Condominium rezoning request.

Mr. Chamberlain asked, the part that would be rezoned E-P and then used as a detention basin, is that a detention basin 6:1 or 4:1 slope?

Mr. Savidant replied, that is an issue that will be ironed out in the Site Plan stage.

Mr. Starr asked, do we have actual numbers of the distance of the R-1T to the east? How deep is it from Rochester Road?

Mr. Savidant stated that his estimate is approximately 700 feet. It is difficult to measure at this time because the line is not straight.

Kevin Kohls, 2025 West Long Lake, stated that he represented Biltmore Properties Corporation. There has been a lot of work that has gone into this rezoning request and since the earlier recommendation of denial by this Commission, Biltmore has

worked closely with the neighbors and the Planning Department to make this work by looking at the adjacent property. The zoning that we are presenting to you tonight solves a lot of difficulties, i.e., difficulties encountered by the neighbors, difficulties we've encountered in processing this, and difficulties by the City. We bring to the table tonight a proposal that preserves the existing zoning along the easterly edge of this property and to the north which complies entirely with the Master Plan, will prevent Robertson from being extended to Rochester Road and will limit the curb cuts from this difficult assembly onto Rochester Road. The legal description that you have been presented tonight is a slight modification to reduce the acres requested for rezoning. The result is a plan that we expect will be very successful. The home and condominium prices will be in the \$250,000 range, certainly comparable to the surrounding homes.

Mr. Chamberlain asked, if the amount of property that is being proposed to be rezoned E-P, is that the size of a 6:1 or a 4:1 detention?

Mr. Kohls replied, it will be a 6:1 detention, very gentle slope, without fences.

Mr. Chamberlain stated that the Commission was handed a letter tonight in which a request was made that it become part of the record by a Ron Angle, 4437 Harold Drive, Troy.

Public hearing opened.

John Moran, 1110 Robertson, stated he did not know what 6:1 detention pond meant and asked what would the maximum drop be?

Mr. Chamberlain stated that the Commission is unable to answer that at this time. What we are trying to do is eliminate the chain link fences altogether. We would like to see 6:1 so they are able to get in there with mowers; and with a 6:1 slope, if there's water in it, people can get out of it. That is where we are coming from.

Paul Stockyj, Attorney for owners of Parcel #1, stated that the Sevedra family have been residents of the City of Troy for quite some time. Members of the family are present here tonight. Mr. Sevedra senior accumulated this property lot by lot and it took him several decades to do that. He had a dream to have this property developed someday. Unfortunately, he is not going to be present to see that dream realized because he passed away in June of 2002. Family members that are present here today would like to see this property be developed.

Ron Angle, 4437 Harold, stated that he has backed up to this property for 26 years. His concern is the opening of Robertson. He does not want Robertson being opened. However, looking at a development back there would be better than

looking at what is presently back there. He would like to look at something that is halfway decent back there.

Public hearing closed.

Mr. Littman commented on this E-P zoning guaranteeing it's going to be a detention pond, and that by being turned over to the City, it will be protected from development. With it being an E-P area, he doesn't understand why it needs to be rezoned.

Mr. Savidant stated that E-P zoning was sought by the surrounding area residents. It would provide an open space area that would serve as a buffer and could never be developed.

Mr. Littman asked, is the detention pond considered natural open space?

Mr. Savidant stated that it could be. The City does require that detention ponds typically be turned over to the City for maintenance.

Ms. Lancaster stated that if it's turned over to the City, it is the City's responsibility to maintain it.

Mr. Kramer stated that he does not remember any automatic designation that E-P zones are dedicated to the City.

Mr. Savidant stated it's the detention pond area that is typically turned over to the City.

Mr. Kramer stated that on the modification of the R-1T boundaries, assuming that we do some resolution here this evening, what document do we reference before us that delineates that modification?

Mr. Savidant replied, the legal description we received today, which is dated September 10, 2002.

Mr. Waller commented, as the gentlemen who lives on Robertson stated earlier, it would be nice if they did not have to look at the detention pond. It's not possible to see from what we have yet exactly where the eastern boundary of the detention pond would be in reference to the eastern property line. Potentially, the private street that is unnamed, could be flattened out a little bit and maybe move the detention pond slightly to the west to allow enough room for landscaping, at a minimum, a small berm, not a large berm, along the eastern side of the detention pond. He stated that this was his personal observation.

Mr. Waller concluded, stating that he applauded and concurred with keeping Robertson as it is today and asked that all parties consider a walkway be put

through from the southwest end corner of Robertson to the nearby public street (what is designated as lots 6 & 7). If that was provided, it would be a much easier way for the children to get to the elementary school than going to the north up to Shallowdale or either south down to Lamb. There are places around Troy where walkways have been created to connect subdivisions to nearby subdivisions or to connect new subdivisions to streets that aren't going to be opened and hopes this will be considered.

Mr. Wright stated that he would like to compliment the Biltmore people.

RESOLUTION

Moved by Wright

Seconded by Storrs

RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1C to R-1T, being 12.31 acres (net) in size and E-P, being 0.93 acres in size, rezoning request, located on the east side of Rochester and on the north side of Lamb, Section 14, for the Proposed Rochester Road Condominium Development, be granted in accordance with the boundaries as presented on the legal description submitted and dated September 10, 2002.

Mr. Storrs stated that the sketch for the detention area and what was submitted September 10, 2002, reads R-1T zoning and should read E-P zoning.

Mr. Chamberlain clarified, to change the designator on the drawing to show E-P zoning rather than R-1T zoning.

Yeas:

All present (7)

Pennington (arrived @ 8:30 P.M.)

Nays:

Absent:

Vleck

MOTION CARRIED

8. PUBLIC HEARING - PROPOSED REZONING (Z-400) – Sparkling Car Wash, East side of Livernois, South of Maple, Section 34 – B-3 to H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed Sparkling Car Wash rezoning request.

Mr. Waller asked if the car wash has to go in the H-S zoning district.

Mr. Savidant replied yes.

Mr. Wright stated that he realized this is not a Site Plan, but on the back of this Site Plan drawing, it is marked "future site of RV Park". Is that something that would require H-S zoning as well and could not be done in B-3?.

Mr. Chamberlain stated, let Ms. Lancaster look that up.

Mr. Storrs stated that he thinks it is a good location for a car wash. He asked if there was another way to do this.

Mr. Kramer commented that car washes are not the most compatible neighbors.

Ms. Pennington voiced her concern about the four (4) driveways located directly across the street and possible traffic issues.

Rocko Juncaj, 11345 Engleman, Warren, MI, stated that he has been a licensed builder in Michigan for 23 years.

Mr. Chamberlain asked if the petitioner was planning on selling gas.

Mr. Juncaj replied no.

Public hearing opened and closed.

Mr. Littman asked about the drawing handed out tonight with the words "future site of RV Park" printed on the back.

Petitioner replied that was just a future possibility and that he doesn't see it happening. It's going to be an empty lot back there.

Mr. Chamberlain asked Ms. Lancaster if she had an answer to what is allowed.

Ms. Lancaster stated that a RV Park could not be done under H-S.

Mr. Storrs asked, what happens to the rest of the property? Should we really talk about rezoning it all H-S?

Petitioner stated it's all grass behind the dumpster. We are just going to leave that alone.

Mr. Chamberlain asked why wouldn't we do a dual thing in here, rezone the front, whatever distances it is for the car wash, the second easterly portion of this B-2.

Mr. Chamberlain commented to Ms. Lancaster that he understands this request was advertised as B-3 to H-S in total. However, could we send forward a

recommendation to City Council to have X number of footage from Livernois east, H-S rezoning and then the remainder B-2 in tonight's meeting?

Ms. Lancaster stated that she believes that another public hearing would need to take place if you act on only part of the rezoning request. New notices would have to be sent out for the remaining portion to be rezoned in something other than H-S.

Mr. Kramer stated that he thinks it's a little bit of paper shuffling if we need to rezone it in the future from H-S to B-2 or we would have to modify the request and come back again with a split request for H-S and B-2. His proposal would be to proceed with the petitioner's request for H-S and when we see another proposal before us and they've had time to think about it, decide where the boundary will be for the rear half of B-2.

Mr. Kramer stated, in order for the petitioner to understand, his motion is to recommend their request. That does not prohibit you whatsoever for a future request to take part of your H-S and change it.

RESOLUTION

Moved by Kramer

Seconded by Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that the B-3 to H-S, rezoning request, 0.9 acres in size, located on the east side of Livernois and south of Maple, Section 34, for the proposed Sparkling Car Wash, be granted.

Yeas:

All present (8)

Nays:

Absent:

Vleck

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENT**9. PUBLIC HEARING - PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 194) – Articles 10.20.08 & 34.60.00 R-1A & R-1B Open Space Preservation**

Public hearing opened and closed.

RESOLUTION

Moved by Littman

Seconded by Storrs

RESOLVED, that the Planning Commission hereby recommends to the City Council that the Articles 10.20.08 & 34.60.00 R-1A & R-1B Open Space Preservation, of the Zoning Ordinance to read as follows:

Open Space Preservation Option

Amend the indicated portions of the One Family Residential Districts and the Residential Development Options text in the following manner:

(Underlining, except for major section titles, denotes changes.)

10.00.00 ARTICLE X ONE FAMILY RESIDENTIAL DISTRICTS

10.20.08 The Open Space Preservation Option may be utilized in the R-1A and R-1B districts, to comply with PA 179 of 2001 (amendment to City and Village Zoning Act), subject to the requirements of Section 34.60.00.

34.00.00 ARTICLE XXXIV RESIDENTIAL DEVELOPMENT OPTIONS**34.60.00 OPEN SPACE PRESERVATION OPTION**

This option may be utilized, at the developer's option, in the R-1A and R-1B One Family Residential zoning districts.

34.60.01 The following objectives shall govern the approval or disapproval of the proposed Open Space Preservation Plan:

A. To provide a more desirable living environment by preserving the natural character of the property, such as mature trees, wetlands, floodplains, topography, and open space for enjoyment by residents of the Open Space Preservation development.

- B. To encourage developers to use a more creative approach in the development of residential areas.
- C. To encourage a more efficient, aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles.
- D. To encourage the provision of open space so benefits may accrue directly to residents of the Open Space Preservation development and to further encourage the development of recreational facilities.
- E. An Open Space Preservation development shall result in a recognizable and substantial benefit to residents of the property and to the overall quality of life in the City.

34.60.02 Application Information Requirements: The Open Space Preservation Plan shall contain the following, in addition to the information required on a complete site plan:

- A. A complete description of the land proposed to be dedicated to the city or to the common use of lot owners (herein called dedicated open space) shall be provided, including the following:
 - 1. Legal description of dedicated open space, including dedicated easements.
 - 2. Topographical survey of dedicated open space.
 - 3. Types of soil in dedicated open space.
 - 4. Description of natural features on dedicated open space.
 - 5. Other relevant information necessary to show that the proposed development qualifies for approval as an Open Space Preservation development.
- B. The proposed plan of development of the dedicated open space shall be submitted with the application and shall include the following:
 - 1. The proposed manner in which the title to land and facilities is to be held by the owners of land in the Open Space Preservation development.
 - 2. The proposed manner of regulating the use of the common facilities and areas so as to eliminate possible nuisances to other property owners and cause for enforcement by the city.

3. The proposed uses of dedicated open space and the proposed improvements to be constructed by the proprietor.

34.60.03 Eligibility Criteria: To qualify for the Open Space Preservation Option, the Planning Commission shall determine that all of the following conditions are present:

- A. The land is zoned for R-1A or R-1B residential development.
- B. The percentage of land area specified in Section 34.60.06.A below must remain in a perpetually undeveloped state.
- C. The Open Space Preservation site shall be under the control of one owner or group of owners acting jointly and shall be capable of being planned and developed as one integral unit.

34.60.04 Dwelling Unit Density:

- A. The number of dwelling units allowable within the Open Space Development shall be determined through the preparation of a “parallel plan”.
 1. The applicant shall prepare a parallel plan for the project that is consistent with State, County and City requirements and design criteria for a tentative preliminary plat or unplatted site condominium. The parallel plan shall meet all standards for lot /unit size, lot/unit width and setbacks as normally required for the applicable one family zoning district.
 2. The City shall review the design and determine the number of lots that could be developed following the parallel plan. This number shall be the maximum number of dwelling units allowable in the Open Space Preservation development.

34.60.05 Regulatory Flexibility: To comply with the “open space preservation” provisions of the City and Village Zoning Act, the City may permit specific departures from the requirements of the Zoning Ordinance for yards and lots as a part of the approval process. The applicant may cluster the dwellings on smaller lots, provided the following:

- A. Overall density shall not exceed the number determined in the parallel plan.
- B. Setback provisions shall remain, except:

1. Front yard setbacks may be reduced to not less than 25 feet.
 2. Rear yard setbacks shall be equal to or exceed the rear yard setback requirements for adjacent residential zoning districts.
 3. The side yard setback for buildings within the development may be reduced to permit buildings not less than 20 feet from one another.
- C. All regulations applicable to parking and loading, general provisions, and other requirements shall be met.
- D. The permitted uses shall be restricted to single family detached residential development, residential accessory structures, and non-commercial recreation uses.

34.60.06 Open Space Requirements:

- A. Minimum Requirements: An Open Space Preservation development shall maintain a minimum of twenty percent (20%) of the gross area of the site as dedicated open space which shall remain perpetually in an undeveloped state by means of one of the tools included in Section E below. As used in this section, "undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. As used in this section, the term "greenway" shall mean a contiguous or linear open space, including habitats, wildlife corridors, and trails that link parks, nature reserves, cultural features, or historic sites with each other, for recreational and conservation purposes. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public. Except as noted in Section E below, any land area maintained in an undeveloped state within the boundaries of the site meeting the open space standards herein may be included as required open space. A minimum of fifty percent (50%) of the minimum required open space shall be upland area that is accessible to all residents of the Open Space Preservation development or the City of Troy.
- B. Common Open Space: Common open space, other common properties and facilities, individual properties, and all other elements of a Open Space Preservation district shall be so planned that they will achieve a unified open space, community green or plaza and recreation area system, with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands.

All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be permanently set aside as common land for community use, recreation or conservation.

C. Areas Not Considered Open Space: The following land areas are not included as dedicated open space for the purposes of this Section:

1. Area proposed as single family residential lots.
2. Area proposed as limited common elements of condominium developments, or land within a condominium development, which is convertible to general common elements that will not remain in a perpetually undeveloped state or land convertible to limited common elements.
3. The area of any street right-of-way or equivalent private road easement.

D. Location of Open Space: Common open space shall be planned in locations generally visible and accessible to all residing within the Open Space Development. The common open space may be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development.

E. Protection of Open Space

1. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the City, such as: recorded deed restrictions, restrictive covenants, or conservation easements, plat dedication, or other legal means that run with the land. As used in this section, the phrase "conservation easement" means an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

2. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

- a. Indicate the proposed allowable use(s) of the dedicated open space.
- b. The dedicated open space shall forever remain open space, subject only to uses authorized by state law and approved by the City on the approved site plan or subdivision plat. Open space may include a recreational trail, children's play area, greenway or linear park.

Yeas:
All present (8)

Nays:

Absent:
Vleck

MOTION CARRIED

ADJOURN

The Regular Meeting of the Planning Commission was adjourned at 9:30 p.m.

Respectfully submitted,

Mark F. Miller AICP/PCP
Planning Director